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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,985	12/31/2001	Xingwu Wang	XW-33	3623

37282 7590 02/12/2004

HOWARD J. GREENWALD P.C.  
349 W. COMMERCIAL STREET SUITE 2490  
EAST ROCHESTER, NY 14445-2408

EXAMINER
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YUAN, DAH WEI D

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/035,985	WANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dah-Wei D. Yuan	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

Art Unit: 1745

**IMPLANTABEL FUEL CELL**

Examiner: Yuan

S.N. 10/035,985

Art Unit: 1745

February 6, 2004

**Detailed Action**

1. The Applicant's amendment filed on January 27, 2004 was received. Claim 14 was amended.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action issued on August 27, 2003.

***Claim Objections***

3. The claim objections under 35 U.S.C. 112, first second paragraph, on claim 14 are withdrawn, because claim 14 has been amended.

***Claim Rejections - 35 USC § 112***

4. The claim rejections under 35 U.S.C. 112, first second paragraph, on claims 1-18 are maintained.

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The disclosure does not discuss clearly how the fat cells are harvested before they can be processed to glycerol and fatty acid. The term "harvesting" is interpreted to include not only cutting, but also collecting the cut cells and transporting the cells to the reaction sites for

Art Unit: 1745

converting fatty acid to hydrogen. The term "microknife" has been used in conjunction with different medical fields. Ashraf (US 6,197,039 b1) describes the use of a microknife for hair transplant. Michelson (US 5,423,842) discloses the use of a microknife in spinal surgery. It is not clear as to the functionality and structure of the microknife recited in the instant specification. Applicant discloses that the microknife is used to harvest the fat cell beneath a person's skin before the cells can be converted to fatty acid and glycerol. It is therefore of imperative significance to understand how the microknife is operated and functioned. It is the position of the examiner that the disclosure fails to teach people of ordinary skill in the art as how the body fat is harvested and collected from the human body before it is converted to reactant gas for the fuel cell.

### ***Response to Arguments***

5. Applicant's arguments filed on January 27, 2003 have been fully considered but they are not persuasive.

*Applicant's principle arguments are*

*(a) Virtual cornucopia of surgical devices suitable for making precision cuts are easily available to one of ordinary skill in the art;*

*(b) Specifics of the microknife are exemplified in Carr et al. (US 5,792,137) and Carr et al. (US 5,980,518).*

In response to Applicant's arguments, please consider the following comments.

(a) Surgical device may be readily comprehensible for one of ordinary skill in the medical device art, but not necessarily for the artisan in the fuel cell art;

(b) both Carr reference teach a device for simultaneously performing precision cutting and cauterizing of targeted tissues. However, the instant disclosure requires additional functionality and undertaking, other than cutting and cauterizing, from the converting means to enable one skilled in the art to make and/or use the invention. Specifically, it is unclear to the examiner how the fat cells are to be collected, transported and handled before the reaction with the enzyme can take place. The instant specification also fails to disclose how the gaseous species, including hydrogen and oxygen, would be contained for a conventional fuel cell reaction.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1745

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan  
February 6, 2004

  
CAROL CHANEY  
PRIMARY EXAMINER